

Salem Planning and Zoning Commission  
October 19, 2010

Present: Bingham, D. - left at 8:55 pm  
Buckley, K.  
Burr, E.  
Chinatti, M., Town Planner/ZEO  
Fogarty, G., Alt.  
McKenney, H.  
Savalle, R.  
Smith, V., Alt.

Absent: Amato, R.  
Walter, G.  
Vacancy, Alt.

**CALL TO ORDER:**

H. McKenney, chair:

- Called the meeting to order at 7:01 pm, and
- Introduced all members and staff present.

**ADDITIONS TO THE AGENDA:**

M/S/C (McKenney/Burr) to add the following to tonight's agenda:

- Under *OLD BUSINESS*: "4) Thomas resubdivision - 81 Skyline Drive", and
- Under *NEW BUSINESS*: "PZC Officers for 2011".

Vote: approved unanimously.

**PUBLIC HEARING(S):**

- 1) Daigle (Dutch & Associates) Special Exception application (SE#10/09/01) for existing multi-family development that did not go through zoning for approval

This application was withdrawn by the applicant prior to tonight's meeting.

**PETITIONERS:**

- 1) Renz (Bennett) - request for release of monument bond for Lexington Trails Resubdivision (approved 3/16/10) - 615 Hartford Road

M. Chinatti, Town Planner/ZEO:

A request for the return of the monument bond (for three (3) monuments) has been received.

Inspected the site on 10/18/10 and the monuments are in place.

Recommendation is to release the monument bond for the resubdivision.

M/S/C (Burr/Buckley) to release the monument bond for the Lexington Trails resubdivision.  
Vote: approved unanimously .

**PUBLIC COMMENTS:**

- E. Baukus, 83 Skyline Drive - was present this evening to address the matter of her husband's and her agreement with K. Thomas in regard to Mr. Thomas's resubdivision at 81 Skyline Drive.

The chair informed Mrs. Baukus that since a discussion in regard to the Thomas resubdivision had been added to tonight's agenda as #4) under *OLD BUSINESS*, she would be able to address the Commission at that time.

**OLD BUSINESS:**

- 1) **Newman (former Lecce property) - Site Plan application (SP#10-09-02) for construction of a horse farm, including barn, indoor and outdoor riding rings, and septic system at 623 Old Colchester Road (Route 354)**

M. Chinatti, Town Planner/ZEO:

This plan is for a horse farm on the former Lecce property; it was submitted and accepted by the Commission at the 9/28/10 PZC meeting.

Since the PZC's last meeting, the property has been transferred to Ms. Newman.

Copies of this revised plan have been sent to both the Sanitarian and the Town Engineer for review.

The Sanitarian will review the plan when he is in on Thursday, 10/21/10, and

The Town Engineer's comments were just received today.

J. P. Mereen, LS, of Gerwick-Mereen, LLP, appeared before the Commission:

A 200' x 75' piece of land at the north end of Robert and Carol Lecce's property is being deeded to them by J. Newman.

It will be accomplished by a boundary adjustment and the plans will be so revised.

Manure containment is now shown on the plan; there will be no processing of the manure;

Roof drains will be into a level spreader; and

Parking for horse trailers will be shown on the plan.

M. Chinatti, Town Planner/ZEO:

Informed the Commission that the Inland Wetlands and Conservation Commission Buffer Permit, for grading within the seventy-five (75) ft. Upland Review Area, has been approved by the Wetlands Enforcement Officer.

Concerns were raised as to the line going through two (2) buildings/sheds on the bottom right corner of the plan above the statement *AREA TO BE RETAINED BY HELEN LECCE*.

J. P. Mereen stated that these lines would be taken out; they are tie-lines.

M. Chinatti, Town Planner/ZEO:

Recommendations to the Commission:

- Table the application to the 10/26/10 PZC meeting to allow for plan revision, the Sanitarian's review and his comments to be received by the Commission.

M/S/C (Fogarty/Burr) to table the Newman Site Plan application (SP#10-09-02) for construction of a horse farm, including barn, indoor and outdoor riding rings, and septic system at 623 Old Colchester Road (Route 354) to the October 26, 2010 Planning and Zoning Commission Regular Meeting agenda to allow time for Sanitarian review and comments and plan revision. Vote: approved unanimously.

## **2) Abetti - Plan of Conservation and Development (POC&D) 2011 update**

M. Chinatti, Town Planner/ZEO:

The POC&D Committee has been working for quite a while on the update and are nearing completion of the document.

F. Abetti, Chairman of the POC&D 2011 Subcommittee, appeared:

Presented to all present and reviewed: *POCD Committee - Oct 19, 2010 Progress Update* (see attached to the filed copy of this document).

From April through September, the Committee updated all sections;

From September to October, the Plan was consolidated into one (1) document;

In October:

The Committee critiqued the document;

Discussed strategy (with K. Buckley, MLUP Committee chair and M. Chinatti, Town Planner) for incorporating the MLUP into the *Municipal Facilities, Land and Services* section of the Plan; and

Incorporated recommendations in the MLUP into the POC&D.

The Committee is presently coordinating with the EDC, MLUP, Recreation Commission's 10-Year Plan and other subcommittees for incorporating their recommendations and will be discussing who or what Board or Commission should be responsible for implementation of what recommendation.

The Committee now feels that it cannot go any further without PZC comments.

All PZC members will receive copies of the POC&D draft for review.

The Vision Committee will appear before the Board of Selectmen at their November meeting.

The Vision for the Town of Salem is a two (2) page document consisting of a short paragraph for each section of the POC&D.

The Vision can be compared to the umbrella document; whereas the POC&D is the implementation (deliverable) document.

Brief discussion of the report received from the Town Center Committee:

The document has been taken under advisement by the PZC.

Copies of the draft of the POC&D were distributed to all members present.

Consensus was that the members would review the document and place it on the 11/23/10 PZC agenda for further discussion.

### **3) Municipal Land Use Plan (MLUP)**

H. McKenney, chair, stated that he thought that the MLUP, the administrative document for guidance in Salem's municipal development, presented by the MLUP Committee at the 9/28/10 PZC Regular Meeting, was an exceptional inclusive document and very well laid out.

The Commission was in agreement and took the following action:

M/S/C (McKenney/Savalle) to accept and approve the Town of Salem Municipal Land Use Plan dated October 19, 2010. Vote: approved unanimously.

K. Buckley, MLUP Committee Chairperson, will now present the Plan to the Board of Selectmen.

### **4) Thomas resubdivision - 81 Skyline Drive**

M. Chinatti, Town Planner/ZEO:

This four (4) lot resubdivision was approved in June 2010 with a Special Exception, also approved in June 2010, for a common driveway.

There was to be a transfer of property along the common driveway from K. Thomas to C. & E. Baukus, 83 Skyline Drive,

who would then transfer a triangular piece at the rear of their property to Mr. Thomas.

Three (3) trees were to be removed within the CL&P easement area. The CL&P easement is located within the Thomas to Balkus land swap area. Subsequently, CL&P removed twenty-four (24) trees,

Now, due to the fact that there are no trees left and they have no buffer, C. & E. Baukus do not want the strip of land from Mr. Thomas, who did file the paperwork on the Salem Land Records to deed it to them. They have since deeded it back to Mr. Thomas and have stated that they will not deed the triangular piece of their land to Mr. Thomas, who has a fence on the property.

Since the present site conditions are not in sync with the approved plans, Mr. Thomas now needs to submit a revised subdivision plan showing the existing conditions on the site for PZC approval. K. Thomas has indicated to her that he would contact his engineer.

It is her understanding that CL&P has the final say as to how many trees need to be cut down.

There is nothing before the Commission tonight, but a revised resubdivision will be submitted soon. This is just a "heads up" as to what will be coming up before the PZC.

Commission discussion revolved around the fact that the resubdivision is now an invalid resubdivision as the site does not allow the plan to be constructed as shown.

Attorney Byrne has stated that there need not be a public hearing held for the revised resubdivision; just a revised subdivision plan reflecting the now existing site should be submitted for PZC approval.

After discussion, it was the Commission's consensus that M. Chinatti should speak to Attorney Byrne and get his opinion as to whether or not the PZC should or should not have signed the mylars for filing before these deeds between the private parties were executed and what the legal requirements are on issues such as these.

C. & E. Baukus, 83 Skyline Drive, appeared before the Commission:

In all good faith, they agreed to the land swap with only three (3) trees to be removed. When the twenty-four (24) trees were removed, they tried to speak to K. Thomas. He said he did not have time to talk to them, but he stated that it was not he that cut down the trees, it was CL&P. They then called CL&P and were told that

they cannot cut trees on private property without the owner's permission.

At this point, they sent a letter to Mr. Thomas stating that they did not want to participate in the land swap as they had lost their buffer of trees. Mr. Thomas had already deeded the property to them, so they deeded it back to him at their own expense.

They are still willing to sit down and discuss the matter with Mr. Thomas. They have lost their privacy, which the trees would have given them, and the land is worthless to them as it is now. They would like to discuss the possibility of Mr. Thomas replacing some of the trees. A privacy border is all they want.

J. O'Brien, 77 Skyline Drive:

Submitted photos of the site in its present state (showing the work that has been accomplished on the driveway). The present driveway was the former Bramblewood Drive, which was not an approved town road, but it did serve as access for four (4) homes off of Skyline Drive: Baukus, O'Brien, Bjorn, and the former owner of K. Thomas's home, C. Hewitt.

Expressed concerns as to the quitclaim deed for the ownership of the right-of-way (driveway) filed by Mr. Thomas. No prior volume and page has been found for it. It just appeared on the Land Records.

Concerns in regard to the fact that there will now be seven (7) residences off the common driveway instead of only the six (6) allowed by the regulations.

The driveway now serves Baukus, O'Brien, Bjorn, and Thomas, four (4) homes. Since the Thomas/Baukus land swap is not taking place, Baukus's access will still be through the driveway and the three (3) new lots will also be accessed by it, thus making for seven (7) homes off one common driveway and the regulations only allow a maximum of six (6).

The Commission stated the ZEO would inspect the site for any zoning violations.

C. Keet, 83 Skyline Drive (resides with C. & E. Baukus):

Sister to E. Baukus and has resided with the Baukus's for five (5) years.

Spoke to the arborist from CL&P as to their policies when cutting or trimming trees on private land and was told the following:

- CL&P does not have their own tree cutting/trimming department; they contract with local tree cutting firms;
- An initial review of the site takes place by CL&P;
- They give their recommendations to the property owner as to what should be cut or trimmed; and
- It is the landowner's ultimate decision as to what is cut down or trimmed.

The Thomas resubdivision will be placed on the 10/26/10 PZC agenda for further discussion at that time.

#### **NEW BUSINESS:**

##### **1) PZC Officers for 2011**

H. McKenney requested that this item be placed on tonight's agenda.

Due to his new position at work, he will be unable to serve as the chairman of the Salem Planning and Zoning Commission much longer.

After next week's meeting, he will resign as chair and submit his resignation from the Commission.

He stated that he would like to submit the following recommendations to the Commission as he feels they would provide continuity to the Commission:

- K. Buckley should be elected chairperson of the Commission;
- G. Fogarty should be appointed to the Regular Member Vacancy due to his resignation and she should be elected vice chairperson; and
- He would be willing to serve as an Alternate Member on the Commission.

#### **ENFORCEMENT OFFICER'S REPORT/INLAND WETLANDS AND CONSERVATION COMMISSION REPORT:**

There was no ZEO/WEO Report this evening.

#### **APPROVAL OF MINUTES OF PREVIOUS MEETING(S):**

- 1) **September 21, 2010 - Regular Meeting**
- 2) **September 28, 2010 - Regular Meeting**

M/S/C (Savalle/Burr) to approve the minutes of the September 28, 2010 Regular Meeting of the Salem Planning and Zoning Commission as presented and the September 21, 2010 Regular Meeting amended as follows:

September 21, 2010

Page 4: in the sentence in the 12<sup>th</sup> line from the top of the page, change to read: "Based upon their past history, the Commission may go straight to filing an injunction with the court."

Vote: approved unanimously.

**PLUS DELTAS:**

The Commission did not discuss *PLUS DELTAS* this evening.

**CORRESPONDENCE:**

- Land Use Academy Basic Training seminar information.

D. Bingham recused himself and left the meeting.

**EXECUTIVE SESSION:**

- Pending Litigation - Kobyluck Brothers, LLC v Salem Planning and Zoning Commission

M/S/C (Burr/Buckley) to go into Executive Session at 8:55 pm to discuss Kobyluck Brothers, LLC v Salem Planning and Zoning Commission and include M. Chinatti, Town Planner/ZEO/WEO and D./ McTigue, Administrative Assistant/Recording Secretary. Vote: approved unanimously.

Present at Executive Session:

K. Buckley, E. Burr, G. Fogarty, H. McKenney, R. Savalle, V. Smith.

Present at the Commission's pleasure:

M. Chinatti, Town Planner/ZEO/WEO, and D. McTigue, PZC Administrative Assistant/Recording Secretary.

NO ACTION TAKEN.

M/S/C (Burr/Buckley) to come out of Executive Session at 9:04pm. Vote: approved unanimously

**ADJOURNMENT:**

M/S/C (Buckley/Savalle) to adjourn the meeting at 9:07 pm. Vote: approved unanimously.

Doris McTigue, Administrative Assistant/Recording Secretary